

**CITY OF SAN DIEGO
ELECTIONS TASK FORCE
MEMORANDUM**

DATE: July 26, 2006

TO: Honorable Members of the Rules Committee

FROM: Elections Task Force

SUBJECT: ELECTIONS TASK FORCE RECOMMENDATION:
MAIL-ONLY BALLOT ELECTION

I. Introduction

On February 6, 2006, the City Council formed the Elections Task Force, with the objective of researching elections-related issues, and reporting results and recommendations to the Rules Committee for possible consideration by the full City Council. Members of the Task Force include appointees from the Mayor and each Council Office, with the City Clerk serving as the chair. The Task Force is staffed by representatives from the City Attorney's Office, the Office of the Independent Budget Analyst, the Mayor's Office, and the Office of the City Clerk. On April 5, 2006, the Task Force agenda and a potential action timeline were approved by the Rules Committee. The first meeting of the Task Force occurred on April 21, 2006, with mail-only balloting as the first topic under consideration.

II. Conducting a Mail-Only Election

"All-mail ballot elections" are elections in which every voter in a given jurisdiction is provided with an absentee ballot. Mail-only balloting in the U.S. has a fairly long history both at the statewide and at the local level.

Local jurisdictions in Oregon have conducted all-mail elections since 1981, and in 1998, 67% of Oregon voters approved voting by mail for all elections, including federal elections. Five years later, a University of Oregon survey suggested that Oregonians, across all demographic and partisan categories, continue to favor this type of election. Almost a third of respondents reported that they voted more often with vote-by-mail – particularly women, the disabled, homemakers and those age 26-38 years. Results also suggested that no partisan advantage is likely to result as a consequence of elevated turnout under vote-by-mail.

Currently, Oregon is the only state that conducts all of its statewide elections on an all-mail basis. However, in 2005, the Washington State Legislature amended state election law to authorize counties to exercise a local option to conduct all elections by mail. Shortly thereafter, 29 of the state's 39 counties adopted the local option in 2005, and four more have adopted ordinances to implement vote-by-mail systems in 2006.

Other states, including California, permit all-mail ballot elections only under specific conditions—usually for local or special elections. Locally, in 2005, the San Diego County Registrar of Voters conducted a mail-ballot election for the Ramona Water District, which consists of 18,009 registered voters, and which resulted in a 37.28% turnout. Two California counties—Alpine and Sierra—conduct all-mail ballot elections for all local, state, and federal elections, thanks to a provision of law allowing counties with precincts with fewer than 250 voters in them to turn them into all-mail ballot precincts. Additionally, California recently has allowed any voter to register as a “permanent absentee voter,” essentially enabling all registered voters to vote by mail. (We note that approximately 21% of the City of San Diego's current voters are permanent absentee voters.) Finally, California State Assembly Bill 707, which did not generate sufficient timely support this year, would have enabled any California county to conduct its June 6, 2006, direct primary election entirely by an all-mail ballot.

California's Charter cities have more leeway to conduct mail-only elections than do the state's general law cities. For example, in 2003, the citizens of Burbank approved an advisory ballot initiative amending that Charter city's municipal code to allow for conducting primary nominating elections and general municipal elections wholly by mail, beginning in 2005.

In her report before the Elections Task Force on June 23, 2006, Deputy City Attorney (DCA) Sharon Spivak advised that municipal election procedures in a Charter city are a municipal affair and subject to municipal control, so that the City of San Diego is able to adopt its own rules for its own elections. Currently, it is not possible to use an all-mail ballot for any election which the City chooses to consolidate with a state or federal election. However, practically speaking, the City may hold any “stand-alone” election—such as a special election to fill a vacancy in a Council seat—by mail. In fact, in 1981, the City successfully held a City-wide referendum election by mail.

For such a special election, the enabling procedure is fairly straightforward: the City Council adopts the implementing ordinance. (We note that there may be time constraints related to any “stand-alone” election scheduled shortly before or after any state or federal election, should the City wish the Registrar of Voters to conduct the mail-ballot election. We note additionally that, should the City wish to conduct regular elections by mail, a Charter amendment would be required. (Charter amendments require voter approval. However,

mail-only ballots still could not be used when the City consolidates a municipal election with a statewide or federal election.) DCA Spivak suggested that the City Council may wish to seek an advisory vote of the people to gauge public reaction to mail-ballot elections.

III. Special Issues

The Elections Task Force examined a variety of special issues pertinent to the all-mail ballot, including cost considerations and voter participation.

Costs. Conducting a mail-ballot election obviously eliminates costs related to polling place rentals and equipment, and reduces some costs related to staff and contract labor. However, costs for signature verification and mailing—including return postage for voted ballots—clearly increase. Additionally, it would be worthwhile to consider an educational outreach/publicity campaign should a mail-ballot election be called; this would have its own cost.

The Task Force discovered that some jurisdictions, such as the State of Oregon, claim considerable cost savings by moving to mail-only elections; in fact, with its 1981 all-mail ballot, the City of San Diego reportedly saved 40% of the cost of a conventional election, and the Registrar of Voters has estimated 30-50% savings for a present-day mail-only election. However, other jurisdictions acknowledge no savings or increased costs. An analysis by the City of Burbank of costs incurred indicated that the overall cost of its mail-ballot election was higher than conducting a polling place election, although the cost per vote cast was significantly lower.

In her report before the Elections Task Force on June 23, 2006, Office of the Independent Budget Analyst staff member Penni Takade advised that she did not anticipate any significant cost differentials in implementing a mail-only election, based on a forecast using actual costs related to the January 10, 2006, special run-off elections in Council Districts 2 and 8 for comparison. In fact, only in scenarios involving a significant increase in voter turnout was the cost per voter reduced, and the overall cost always rose. (We note that the issue of return postage plays a not-insignificant role in cost calculations.)

It is also important to note that future printing, labor and postage costs are certain to rise.

However, there are other “cost” considerations to be factored into the equation, especially relative to the process of locating appropriate polling locations and recruiting poll workers. In a City election, both of these time- and labor-intensive tasks are typically undertaken by the San Diego County Registrar of Voters, with whom the City contracts to provide election services. Polling places must provide for disabled access, sufficient parking, and sufficient space for polls, plus amenities necessary for poll workers during a 12- to 14-hour day.

Recruiting qualified election officers is also a daunting task; last-minute cancellations by poll workers can be fairly common. Conducting an all-mail election removes these factors, to the benefit of the City, especially should the Registrar of Voters be unable to provide its services for a particular election, so that the bulk of the tasks falls to the City Clerk or an alternate vendor.

Voter Participation. The Task Force discovered that numerous jurisdictions, including the State of Oregon, the City of Santa Monica, and the City of Burbank, have reported higher voter turnout upon conducting mail-ballot elections. It has been suggested that higher turnout in the California cities may in part be a result of the “newness” factor of the all-mail ballot. Consequently, with its long history of mail-ballot elections, Oregon may provide a better assessment of such elections’ impact on voter turnout. A 2001 study of Oregon elections, published in *Public Opinion Quarterly*, concludes that voting by mail increases voter participation in the long run, because the process makes it easier for current voters to continue to participate, but does not necessarily turn non-voters into voters.

It is important to note that an all-mail ballot provides several advantages to voters, perhaps most obviously in that it eliminates obstructions that can prevent people from getting to the polls. Voters presumably have more time for analysis and decision-making, have more time to vote, are not required to wait in line to vote—in fact, are not limited by specific polling times and places for casting their ballots. Additionally, issues of polling-place compliance with the Americans with Disabilities Act and the Help America Vote Act are removed, and concerns about voting machine functionality and integrity are eliminated. Nevertheless, it may be fair to say that a “likely voter” is a “likely voter” whether he or she votes at a polling place or by mail.

With the implementation of a mail-ballot election, both voters and the City may be better served by an improvement in the quality of voter records. Mail ballots cannot be forwarded, and are returned by the U.S. Postal Service to the Registrar of Voters (or to the City Clerk, depending upon who is providing election services), where they may be used to assist election officials to purge the records of voters who have moved or are deceased. An up-to-date voter registration list decreases the cost of printing and postage for future ballots. We note, however, that transient voters may be inconvenienced if their ballots do not arrive in a timely manner. Similarly, voters who accidentally toss out their ballots with the junk mail may find their ability to vote slowed pending the arrival of a replacement ballot. In each of these latter cases, delay may seriously encroach upon a voter’s franchise.

It is also important to assess other potential disadvantages which may confront voters in a mail-ballot election. Of primary concern is voter fraud, which in California is punishable as a felony. The Task Force believes that voter identification is more closely scrutinized in a mail-ballot election than in

a standard election; returned mail ballots are subject to both a signature identification check and a residential address check, whereas voters at a polling place are asked for identification only under specific, limited circumstances.

The possibility of loss of secrecy, or voter intimidation, is also cited as a potential disadvantage. In fact, polling places were initially established to provide a safeguard against undue influence and to ensure voter privacy. It should be noted, however, that state law currently permits a voter at a polling site to receive assistance from a person of the voter's own choosing, so long as the assistant is not the voter's employer, an agent of the voter's employer, or an officer or agent of the union of which the voter is a member. Consequently, undue influence may already be an issue, even at polling sites. Additionally, voting by mail has existed in California since 1922, more and more leniently as time has passed. Subsequent to the City of San Diego's 1981 mail-ballot election, the Supreme Court of California found in *Peterson v. City of San Diego*, 34 Cal. 3d 225 (1983), that the voting secrecy provision of the California Constitution did not preclude voting by mail. In the Court's opinion, Justice Broussard wrote, "We are satisfied that the secrecy provision of our Constitution was never intended to preclude reasonable measures to facilitate and increase exercise of the right to vote such as absentee and mail ballot voting....While mail balloting may provide a greater opportunity for fraud than voting booth elections, there has been no showing of significant wrongdoing in absentee or mail ballot voting....In the circumstances, potential for fraud in mail voting is not sufficient to warrant invalidation of statutes and charter provisions reasonably designed to facilitate and increase exercise of the franchise." (*Id.* at 230-231.)

The concerns of those voters who do not wish to mail a ballot which clearly shows their signature could be addressed by establishing one or more drop-off locations, such as the "drive-in voting" option currently offered by the Registrar of Voters for conventional elections.

We further note that voters have been casting ballots on Election Day since the adoption of the U.S. Constitution. In an all-mail election, there is no specific "day" upon which one must cast his or her ballot—instead, there is an election "period," terminated by a specific time by which all ballots must have been received by the Registrar of Voters. Does this somehow tarnish the importance of voting, the concept of civic duty? For some time now, "early voting" has been an option offered by the Registrar of Voters—absentee ballots are merely a part of this process. The Task Force believes that the City's voters will have little or no difficulty overcoming any allegiance they may feel to having a particular election day, especially in the case of an all-mail ballot used for a special election.

IV. Recommendation

The Task Force acknowledges that cost savings and voter turnout data have not been conclusive, but believes that the potential benefits, including voter convenience, make a compelling argument to enthusiastically recommend the use of mail-only balloting for special elections.

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